

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

**GLYNIS MARIE ERICKSON, individually
And as Personal Representative of the
ESTATE OF MARK JOSEPH ERICKSON**

Plaintiff,

vs.

**FORD MOTOR COMPANY
Serve registered agent:
C T Corporation System
319 S Coteau St.
Pierre, South Dakota 57501**

Defendant.

Case No. 21-cv-4205

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW the Plaintiff, GLYNIS MARIE ERICKSON, by and through her undersigned attorneys and as the duly appointed personal representative of the ESTATE OF MARK JOSEPH ERICKSON, hereby brings this lawsuit against Defendant FORD MOTOR COMPANY, and alleges as follows:

ALLEGATIONS REGARDING THE PARTIES, JURISDICTION, AND VENUE

1. Mark Joseph Erickson ("Decedent") was, at all relevant times, a citizen and resident of the State of South Dakota, who died on or about January 16, 2021, in Union County, South Dakota as a result of the negligent acts and omissions alleged herein. Decedent was at all relevant times the operator of Erickson Bye Farms.

2. Plaintiff Glynis Marie Erickson is Decedent's surviving spouse and is the duly appointed, qualified and acting Personal Representative of the Estate of Mark Joseph Erickson. Plaintiff was at all times, a citizen and resident of the State of South Dakota.

3. Defendant Ford Motor Company ("Ford") is a corporation organized and existing under the law of the State of Delaware, with its principal place of business in Michigan.

4. Defendant Ford is registered to do business in the State of South Dakota, maintains a registered agent in the State of South Dakota, and may be served with process through its registered agent at the above-listed South Dakota address.

5. Pursuant to 28 U.S.C. § 1332, this Court has subject-matter jurisdiction over the civil action, as the amount in controversy exceeds \$75,000.00 and complete diversity of citizenship exists between the parties.

6. Defendant Ford is engaged in the design, manufacture, distribution, and sale of the F-150 pickup truck, including the subject 2014 Ford F150 pickup truck (VIN 1FTFW1EF0EKD39381) ("Subject Vehicle") involved in the incident giving rise to the Plaintiff's Petition.

7. Defendant Ford is and was in the business of designing, engineering, manufacturing, distributing, and selling vehicles.

8. Defendant Ford's relationship with the forum and this litigation is close enough to support specific jurisdiction pursuant to *Ford Motor Co. v. Montana Eight Judicial District Court*, 141 S.Ct. 1017 (2021), in that Ford through its actions and those of its agents, conducts business in South Dakota in that it causes its products to be marketed, distributed, and sold within the State. This includes but is not limited to:

- a. Ford maintains numerous Ford dealerships in South Dakota to distribute and sell Ford vehicles;
- b. Ford transports new vehicles on South Dakota highways and railways for distribution throughout the State of South Dakota and the United States; and
- c. Ford transports used vehicles on South Dakota highways and railways for distribution throughout the State of South Dakota and the United States.

9. Defendant Ford has purposely availed itself of the privilege of conducting business in the State of South Dakota and has thereby consented to the jurisdiction of this Court. Defendant Ford's conduct and connection with the State of South Dakota are such that it could reasonably anticipate being haled into a court in the State of South Dakota.

10. Defendant Ford is subject to the specific jurisdiction of this Court in that a vehicle designed, manufactured, distributed, and sold by Defendant Ford to Erickson Bye Farms, a South Dakota partnership, through a dealership in the State of South Dakota caused injury to and ultimately the death of Decedent within the confines of the State of South Dakota and this District.

11. Defendant Ford, through acts of its employees or agents, has submitted itself to the jurisdiction of this Court pursuant to the State of South Dakota's long-arm statute, S.D. Codified Laws § 15-7-2, in that it transacted business in this state, made a contract in this state, and/or committed a tortious act in this state.

12. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b) in that a substantial part of the events giving rise to this claim occurred within this judicial district, in that Decedent Mark Erickson suffered catastrophic injuries resulting in his death as a result of the performance

of and the defects in the seatbelt and occupant restraint system of a Ford vehicle within the confines of the State of South Dakota and this District.

13. The beneficiaries of this wrongful death cause of action for which recovery is potentially available and the relationship of each to the Decedent Mark Joseph Erickson are as follows:

- a. GLYNIS MARIE ERICKSON– Personal Representative of the Estate of Mark Joseph Erickson, and wife of the Decedent;
- b. EMMA LADWIG- Daughter of Decedent;
- c. PARKER ERICKSON- Son of Decedent; and
- d. MORGAN ERICKSON- Daughter of Decedent.

14. Plaintiff GLYNIS MARIE ERICKSON brings this wrongful death cause of action pursuant to S.D. Codified Laws §§ 21-5-2 through 21-5-8, commonly referred to as the “South Dakota Wrongful Death Statute,” as well as S.D. Codified Laws §15-4-1, commonly referred to as the “Survival of Action Statute.”

ALLEGATIONS COMMON TO ALL COUNTS

15. Ford designed, tested, manufactured, marketed, distributed, and sold the 2014 Ford F150 pickup truck (VIN 1FTFW1EF0EKD39381) (“Subject Vehicle”) involved in the car crash that is the subject of this lawsuit.

16. On or about June 11, 2014, Erickson Bye Farms purchased the Subject Vehicle from Vermillion Ford, an authorized Ford dealership located at in Vermillion, South Dakota.

17. On or about January 16, 2021, Decedent was operating the Subject Vehicle, traveling southbound on Interstate 29 near mile marker 13 in Union County, South Dakota.

18. At all times herein, Decedent was properly belted and in a normal seated position.

19. On or about the same time, Eric Pollitt was operating a 2016 GMC Yukon ("Pollitt's Vehicle"), traveling northbound on Interstate 29 near mile marker 13 in Union County, South Dakota.

20. In the moments preceding the crash, Decedent lost control of the Subject Vehicle due to the icy conditions of the roadway and crossed over the dividing median and into oncoming northbound traffic.

21. The Subject Vehicle collided head-on with Pollitt's Vehicle ("Subject Crash").

22. The Subject Vehicle's driver's seatbelt was defective and broke during the Subject Crash, causing Decedent to be partially ejected from the Subject Vehicle.

23. As a direct and proximate result of the negligence acts and omissions of Defendant Ford as set forth below, Decedent suffered catastrophic injuries resulting in his death.

24. As a result of the death of Decedent, Plaintiff is entitled to recover damages including, but not limited to, the value of lost support and services as a result of Decedent's death; future loss of support and services; loss of consortium; loss of companionship, advice, comfort, assistance, and protection; medical and funeral expenses; and loss of earnings of Decedent.

COUNT I: STRICT LIABILITY
(DEFENDANT FORD)

25. Plaintiff hereby incorporates by reference the prior paragraphs as if fully set forth herein.

26. Defendant Ford designed, manufactured, distributed, and sold the Subject Vehicle in the ordinary course of its business.

27. At the time the Subject Vehicle left the control of Defendant Ford, it was defective and unreasonably dangerous in several respects including, but not limited to, the following:

- a. The occupant restraint system was not designed and manufactured in a manner to provide sufficient and proper protection to the driver seat occupant in the event of a collision;
- b. The seatbelt for the driver's seat, when properly used, could break, allowing a driver to be ejected from the vehicle;
- c. The seatbelt for the driver seat failed to adequately restrain Decedent in the Subject Crash;
- d. The occupant restraint system of the vehicle failed to employ practical and technically feasible alternative design that would have prevented the harm without substantially impairing its usefulness and intended purpose;
- e. The occupant restraint system of the vehicle lacked adequate testing and/or inspection to ensure it was reasonably suitable for its intended purpose and provide adequate occupant protection in reasonably foreseeable crash conditions; and
- f. No adequate warning was given to consumers or users of the Subject Vehicle regarding the defective and/or unreasonably dangerous nature of the Subject Vehicle.

28. The Subject Vehicle was expected to and did reach the hands of Decedent without substantial change or modification and was in substantially the same condition on or about January 16, 2021, as it was when it left the possession and control of Defendant Ford.

29. The Subject Vehicle was used by the Decedent in a manner that could be reasonably anticipated.

30. Defendant Ford knew or should have known that the Subject Vehicle would be used without inspection for defects, and it represented that the Subject Vehicle could be safely used for the ordinary purpose for which it was purchased.

31. Defendant Ford knew or should have known that the Subject Vehicle was defectively designed or defectively manufactured in the particular respects set forth above.

32. The defective condition of the Subject Vehicle directly caused or directly contributed to causing catastrophic injuries to Decedent, resulting in his death.

33. As a result of the death of Decedent, Plaintiff is entitled to recover damages including, but not limited to, the value of lost support and services as a result of Decedent's death; future loss of support and services; loss of consortium; loss of companionship, advice, comfort, assistance, and protection; medical and funeral expenses; and loss of earnings of Decedent.

34. Damages recoverable by the Personal Representative of the Estate of Mark Erickson for the benefit of his heirs at law pursuant to S.D. Codified Laws §15-4-1, *et seq.* (Survival Action) include the following:

- a. Funeral expenses;
- b. Severe physical, conscious pain, suffering and mental anguish between the time of Decedent's injury and his death; and
- c. Medical expenses.

WHEREFORE, Plaintiff respectfully demands a judgment against Defendant Ford on Count I of this Complaint for compensatory damages, for pre-judgment and post-judgment interest, for costs in this matter expended, and, for such other and further relief as the Court deems just and proper under the circumstances for Plaintiff's damages and Plaintiff demands trial by jury of all issues.

COUNT II: NEGLIGENCE
(Defendant Ford)

35. Plaintiff hereby incorporates by reference the prior paragraphs as if fully set forth herein.

36. Defendant Ford had a duty to exercise ordinary care in designing and manufacturing the Subject Vehicle in a manner that was not unreasonably dangerous.

37. Defendant Ford was negligent in failing to exercise ordinary care and breached its duty of care to Decedent in several respects, including but not limited to the following:

- a. Ford designed and manufactured the Subject Vehicle such that the occupant restraint system was insufficient to provide proper protection to the driver in the event of a collision;
- b. Ford designed and manufactured the Subject Vehicle such that the driver seat belt, when properly used, could break and allow a driver to be ejected from the vehicle in the event of a collision;
- c. Ford designed and manufactured the Subject Vehicle such that the seatbelt for the driver seat failed to adequately restrain Decedent in the Subject Crash;
- d. Ford designed and manufactured the Subject Vehicle without design features to otherwise eliminate or reduce the risk of occupant ejection and injuries to the head in reasonably foreseeable crash conditions;
- e. Ford designed and manufactured the Subject Vehicle's occupant restraint system that failed to employ practical and technically feasible alternative design that would have prevented the harm without substantially impairing its usefulness and intended purpose;
- f. Ford designed and manufactured the Subject Vehicle's occupant restraint system that lacked adequate testing and/or inspection to ensure it was reasonably suitable for its intended purpose and provide adequate occupant protection in reasonably foreseeable crash conditions;
- g. Ford failed to provide an adequate warning to consumers and users of the Subject Vehicle regarding the defective and/or unreasonably dangerous nature of the Subject Vehicle; and
- h. Plaintiff expressly reserves his right to plead additional actions and/or omissions by Defendant Ford that may be known during the investigation and discovery conducted in this case.

38. The negligence of Ford in these respects was gross in character when compared to Decedent's actions.

39. The Subject Vehicle was used by Decedent in a manner that could be reasonably anticipated by Defendant Ford.

40. As a direct and proximate result of Defendant Ford's negligent conduct, Decedent suffered catastrophic injuries, resulting in his death.

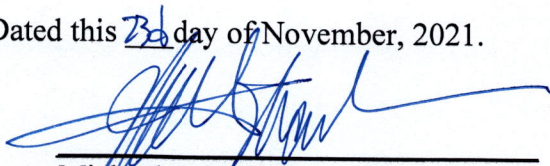
41. As a result of the death of Decedent, Plaintiff is entitled to recover damages including, but not limited to, the value of lost support and services as a result of Decedent's death; future loss of support and services; loss of consortium; loss of companionship, advice, comfort, assistance, and protection; medical and funeral expenses; and loss of earnings of Decedent.

42. Damages recoverable by the Personal Representative of the Estate of Mark Erickson for the benefit of his heirs at law pursuant to S.D. Codified Laws §15-4-1, *et seq.* (Survival Action) include the following:

- a. Funeral expenses;
- b. Severe physical, conscious pain, suffering and mental anguish between the time of Decedent's injury and his death; and
- c. Medical expenses.

WHEREFORE, Plaintiff respectfully demands a judgment against Defendant Ford on Count II of this Complaint for compensatory damages, for pre-judgment and post-judgment interest, for costs in this matter expended, and, for such other and further relief as the Court deems just and proper under the circumstance for Plaintiff's damages and Plaintiff demands trial by jury of all issues.

Dated this 23 day of November, 2021.



Michael F. Marlow
Marlow, Woodward & Huff, Prof. LLC
P.O. Box 667
200 West Third Street
Yankton, South Dakota 57078
T: 605-665-5009
F: 605-665-4788
Attorneys for Plaintiff
mike@mwhlawyers.com

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Glynis Marie Erickson, individually and as Personal Representative of the Estate of Mark Joseph Erickson

(b) County of Residence of First Listed Plaintiff Yankton
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael F. Marlow; Marlow, Woodward & Huff, Prof. LLC,
P.O. Box 667, Yankton, SD 57078; (605) 665-5009

DEFENDANTS

Ford Motor Company, c/o CT Corporation System

County of Residence of First Listed Defendant Hughes
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332

VI. CAUSE OF ACTION

Brief description of cause:

Motor Vehicle Crash and Subsequent Seat Belt Failure Resulting in Death

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE


11-23-2021

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

First Class Mail
First Class Mail

1	\$1.76 US POSTAGE 4 OZ FIRST-CLASS MAIL FLATS RATE	062S0006970480 FROM 57078
	RETAIL 	stamps endicia 11/23/2021
USPS FIRST CLASS MAIL®		
MARLOW, WOODWARD & HUFF PLLC PO BOX 667 YANKTON SD 57078		
<div>C033</div>		
SHIP TO: United States District Court Clerk Rm 128 United States Courthouse 400 South Phillips Avenue Sioux Falls SD 57104-6848		
